

**CALENDAR ITEM
C09**

A 1
S 1

04/20/17
PRC 5276.1
K. Connor

AMENDMENT OF LEASE

LESSEE:

Phillip S. Estes and Nancy F. Estes, Trustees of the Phillip S. and Nancy F. Estes Revocable Trust dated June 27, 2013

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 5680 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and one mooring buoy.

LEASE TERM:

10 years, beginning June 28, 2016.

CONSIDERATION:

\$752 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

Amend the lease to:

1. Authorize the proposed removal of an existing mooring buoy, and installation, use, and maintenance of a boat lift including two 10-inch diameter steel pilings.
2. Revise the annual rent from \$752 per year with an annual Consumer Price Index adjustment, to \$471 per year with an annual Consumer Price Index adjustment, effective June 28, 2017.
3. Include special lease provisions related to construction.
4. Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only).

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All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and the State's Best Interests Analysis:

The Lessee owns the upland adjoining the lease premises. On June 28, 2016, the Commission authorized a 10-year General Lease – Recreational Use to Phillip S. Estes and Nancy F. Estes, Trustees of the Phillip S. and Nancy F. Estes Revocable Trust dated June 27, 2013, for an existing pier and one mooring buoy ([Calendar Item 17, June 28, 2016](#)). That lease will expire on June 27, 2026.

The Lessee is now applying to amend the lease for the proposed removal of the existing mooring buoy, and installation of a new boat lift including two 10-inch diameter steel pilings. While the boat lift will extend outwards over the water, the proposed construction will not result in a significant change to the overall footprint. However, the removal of the existing mooring buoy, even with the additional impact area associated with the boat lift, will result in an overall reduction in the lease area.

Proposed construction of the boat lift will be performed on site with most of the construction being above the water. The construction materials will be supplied from the lake by means of a rubber-tired amphibious vehicle. Low ground pressure tires will ensure minimal lakebed disturbance. Placement of the boat lift will be performed by manual labor and portable equipment. Construction will take place after all required approvals have been obtained. Two steel pilings will be installed for the boat lift, and the mooring buoy anchor will be removed, which will create minimal lakebed disturbance. Therefore, work within the project area shall be confined to the period of October 1 through June 1.

The lease includes certain provisions protecting the public use of the proposed lease area, including a lease term limited to 10 years, a non-exclusive use provision, and a reservation to the people of the State of an easement for access to and across the lease area. The proposed facilities will not significantly alter the land, alienate the State's fee simple interest, or permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing,

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Commission staff believes that the proposed construction to install the boat lift and remove the one mooring buoy will not substantially interfere with Public Trust needs, at this location, at this time, or for the foreseeable term of the lease.

The lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease amendment is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. **Boat Lift Installation:** Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. **Buoy Removal:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through

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the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS REQUIRED:

California Department of Fish and Wildlife
Lahontan Regional Water Quality Control Board
Tahoe Regional Planning Agency

APPROVALS OBTAINED:

U.S. Army Corps of Engineers

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Boat Lift Installation: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Buoy Removal: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 4, Minor Alterations to Land, California Code of Regulations, title 14, section 15304.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed amendment of Lease No. PRC 5276.1 will not substantially impair public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

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AUTHORIZATION:

Authorize the amendment of Lease No. PRC 5276.1, a General Lease – Recreational Use, effective April 20, 2017, to approve the removal of the existing mooring buoy and installation, use, and maintenance of a boat lift including two 10-inch diameter steel pilings; to revise rent from \$752 to \$471 per year, with an annual Consumer Price Index adjustment, effective June 28, 2017; to include special lease provisions related to construction; and to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); all other terms and conditions of the lease shall remain in effect without amendment.

EXHIBIT A

PRC 5276.1

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 15 Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 –PIER

All those lands underlying an existing pier, one (1) catwalk and one proposed boat lift adjacent to that parcel described in Exhibit "A" of that Grant Deed recorded April 6, 2015 as Document Number 2015-0026268 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

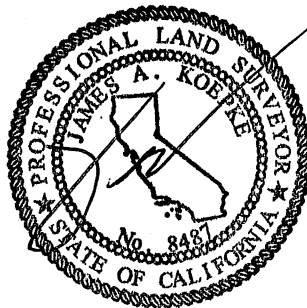
EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

Accompanying plat is hereby made part of this description.

This description is based on Applicant provided design plans found in the Application for Lease of State Lands for a proposed boat lift, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

END OF DESCRIPTION

Prepared January 1, 2017 by the California State Lands Commission Boundary Unit.





APN 116-100-003

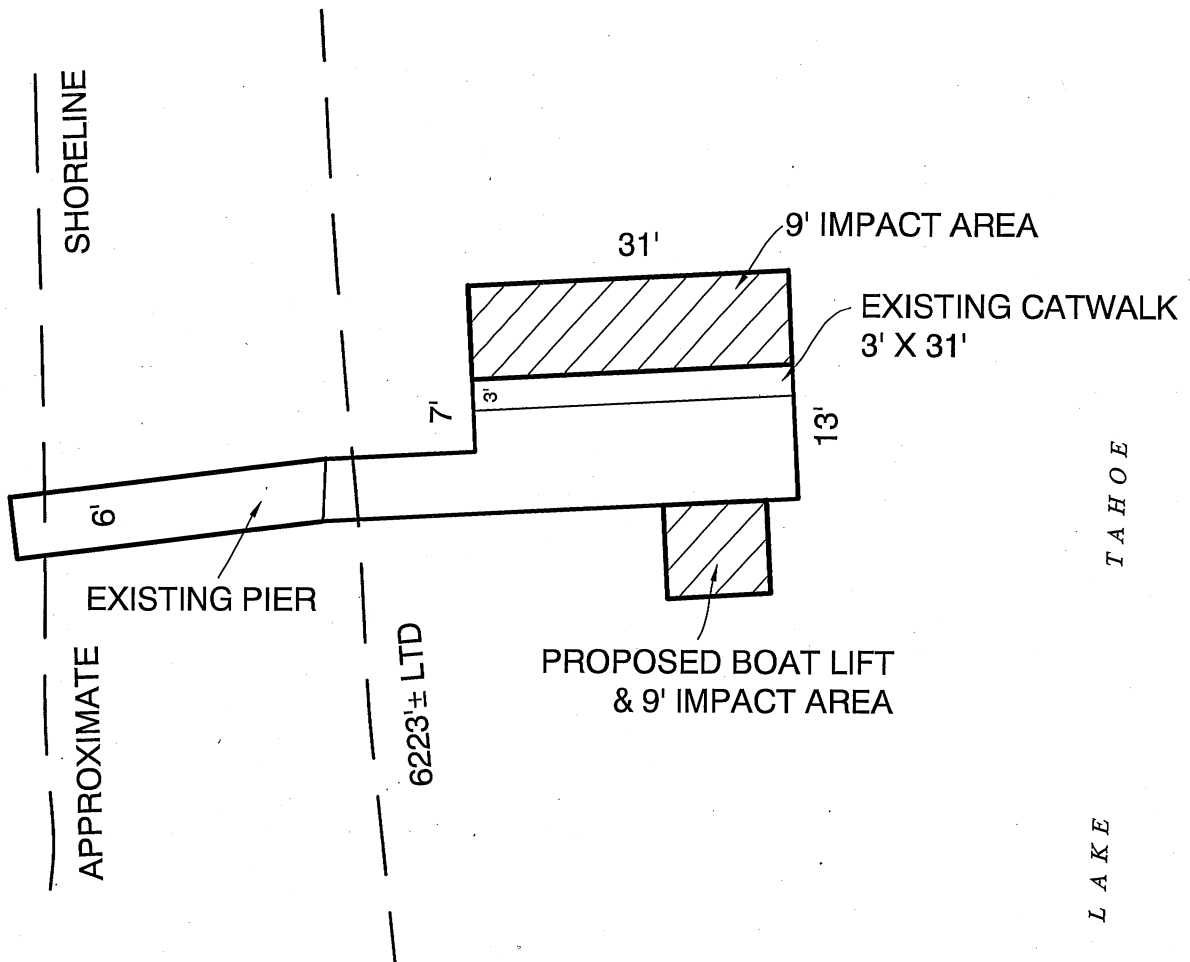


EXHIBIT A

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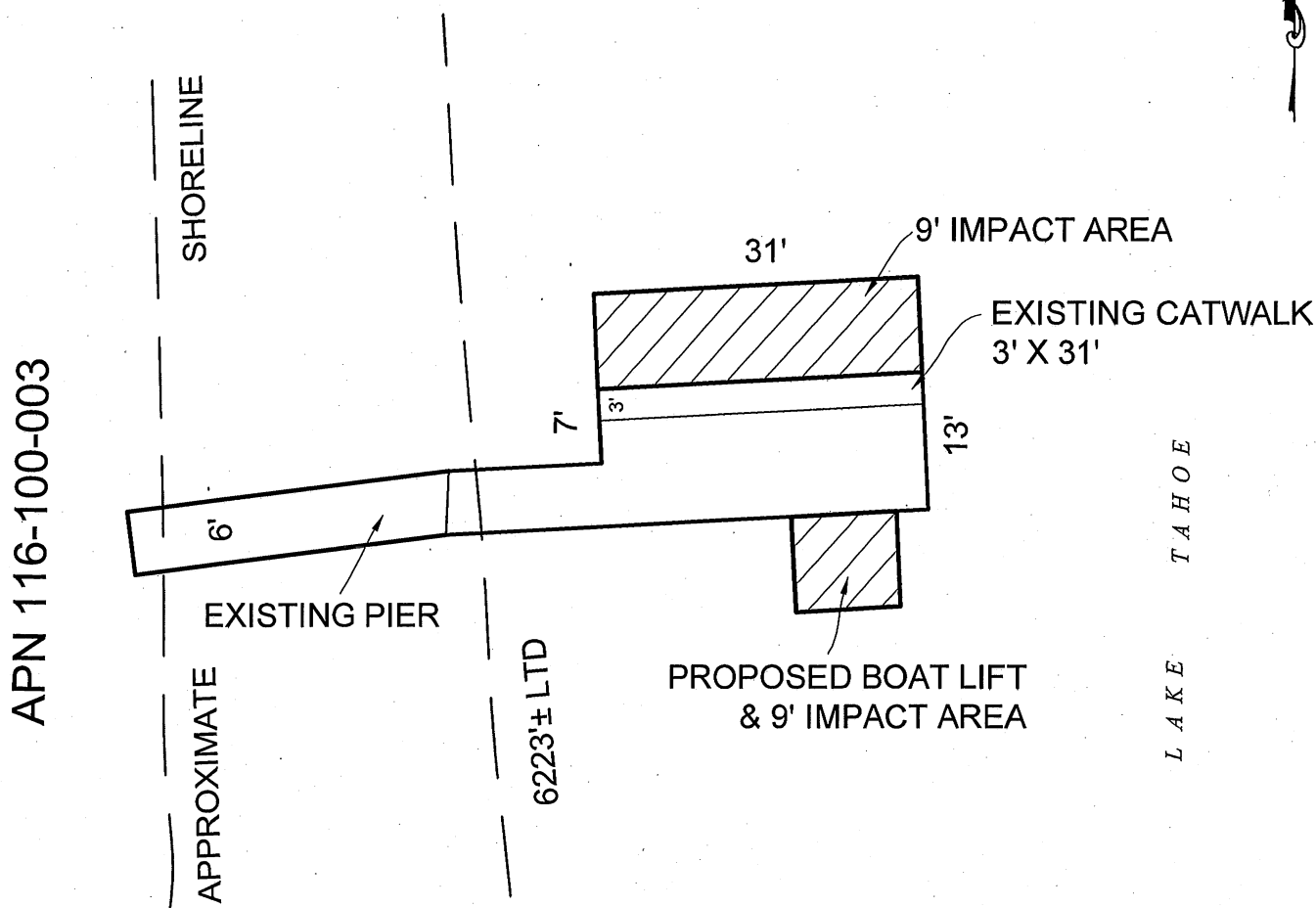
LAND DESCRIPTION PLAT
PRC 5276.1, ESTES TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

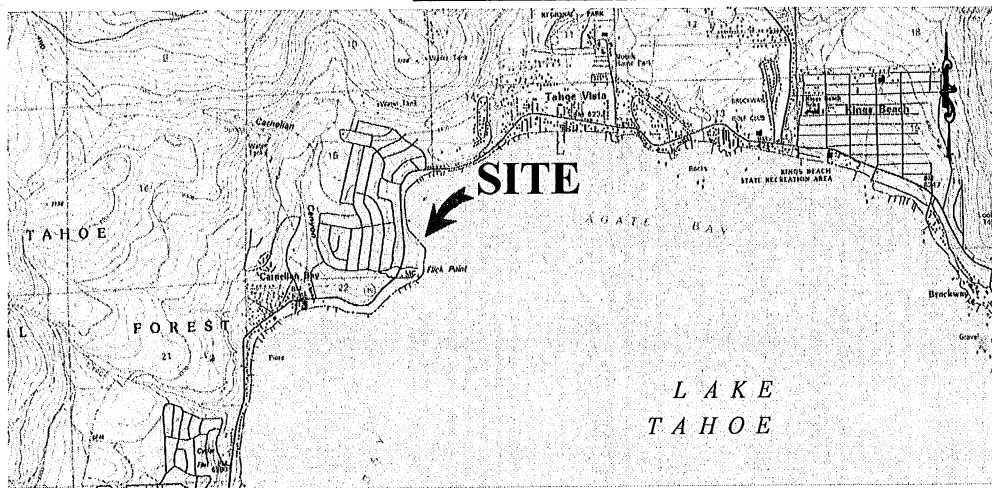
SITE



5680 NORTH LAKE BLVD., NEAR CARNELIAN BAY

NO SCALE

LOCATION

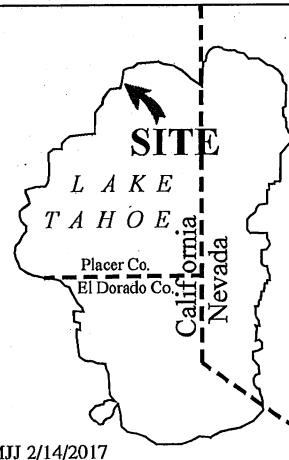


MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 5276.1
ESTES TRUST
APN 116-100-003
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



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